

CERTIFIED FOR PARTIAL PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**In re K.S., a Person Coming Under the
Juvenile Court Law.**

THE PEOPLE,

Plaintiff and Respondent,

v.

K.S.,

Defendant and Appellant.

A124698

**(Alameda County
Super. Ct. No. SJ08011299-01)**

**ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]**

THE COURT

It is ordered that the opinion filed herein on March 25, 2010, be modified as follows:

On page 5, first sentence of the first full paragraph, beginning “Shortly after the decision” is deleted (but retaining fn. 3) and the following language is inserted in its place:

Shortly after the decision in *T.L.O.*, our Supreme Court addressed this issue in *In re William G.* (1985) 40 Cal.3d 550, 564 (*William G.*) In *William G.*, the majority concluded “searches of students by public school officials must be based on a reasonable suspicion that the student or students to be searched have engaged, or are engaging, in a proscribed activity (that is, a violation of a school rule or regulation, or a criminal statute).” (*Ibid.*) The majority found this standard “consistent” with the *T.L.O.* standard.³ (*Ibid.*)

so that the paragraph reads:

Shortly after the decision in *T.L.O.*, our Supreme Court addressed this issue in *In re William G.* (1985) 40 Cal.3d 550, 564 (*William G.*). In *William G.*,

* Pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion is certified for publication with the exception of parts I., III., IV., and V.

the majority concluded “searches of students by public school officials must be based on a reasonable suspicion that the student or students to be searched have engaged, or are engaging, in a proscribed activity (that is, a violation of a school rule or regulation, or a criminal statute).” (*Ibid.*) The majority found this standard “consistent” with the *T.L.O.* standard.³ (*Ibid.*) *William G.*, like *T.L.O.*, declined to address the standard for searches conducted by school officials “in conjunction with or at the behest of law enforcement agencies.” (*T.L.O.*, *supra*, 469 U.S. at p. 341, fn. 7; accord, *William G.*, at p. 562, fn. 12 [“we do not reach the issue of what standard should apply where law enforcement officials are involved at the outset of a student search, or where a school official acts in cooperation with, or as an agent of, law enforcement”].) Unlike *T.L.O.* and *William G.*, in our case, a police detective provided the information relied on by school officials to conduct the search and was present when the search occurred. Does this level of interaction justify rejection of the *T.L.O.* reasonable suspicion standard?

³ Because the search in *William G.* occurred before the passage of Proposition 8, which amended the California Constitution in 1982 (*People v. Lance W.* (1985) 37 Cal.3d 873, 879), the *William G.* court rested its decision on both state and federal law (*William G.*, *supra*, 40 Cal.3d at pp. 557-558, fn 5).

There is no change in the judgment

Dated: _____, P.J.